

REMARKS

In response to the Office Action mailed December 23, 2008, Applicant respectfully requests reconsideration by the submission of this amendment and the concurrently filed Request for Continued Examination.

Claims 2-43 have been examined. By this amendment, Applicant is amending claims 2-16, 18-23, 27, 28, 34-41, and 43. As a result, claims 2-43 remain in the application with claims 2, 9, 15, and 34 being independent claims. Applicant respectfully submits that no new matter has been added by these amendments to the claims.

Interview

The Applicant thanks Examiners Cranford and Dixon for the courtesies extended to Applicant's attorneys in the telephone interview conducted on May 21, 2009. In the interview, Applicant's attorneys submitted proposed claims amendments for discussion purposes, described the context in which the present invention is implemented and explained the differences between the Donner reference and the proposed claims. While no agreement was reached, Applicant appreciates the Examiners' comments and is submitting this amendment in order to move prosecution of this application forward toward allowance.

In the Claims

Applicant has amended claims herein solely to expedite prosecution of this application. In doing so, Applicant does not dedicate the subject matter of the amended claims, either as previously pending or originally filed, to the public, and does not acquiesce to the Examiner's reason(s) offered in support of the rejections of the amended claims or any claim(s) that depend therefrom. Applicant also reserves the right to seek patent protection for claims similar or identical to the amended claims, either as previously pending or originally filed, in one or more subsequently filed, related applications.

Applicant has amended the claims to clarify that which Applicant regards as the invention. More specifically, Applicant has amended the claims to be directed to the providing of information for a "wireless communication session." Accordingly, Applicant submits that the amendments to the claims are not being submitted to distinguish over any cited references of record but merely to clarify the claims.

Applicant's Comments

The Applicant appreciates the Examiner setting forth "further clarification as to what is taught by the references used in the first Office Action." (Office Action mailed December 23, 2008, page 2). The Examiner maintains that claims 2-8 are not patentable over Donner and that Donner "inherently discloses" the "power of electronic commerce" and that "the conduct of business and services over portable, wireless devices" will be pervasive. Applicant does not disagree with the characterization of business over wireless devices increasing. Applicant reiterates, however, that while Donner is directed to the conducting of business ("commerce") over wireless devices, embodiments of the present invention, as evidenced by the claims, are directed to the business of connecting the devices, irrespective of any type of commerce that may be implemented by use of the devices.

With respect to claims 9-14, the Examiner states that it is "commonly known" that cell phone service connection is provided when cell phones roam. Assuming, without agreeing, that this is true, Applicant maintains that Donner does not render these claims unpatentable.

Finally, with respect to claims 15-43, Applicant understands the Examiner to be stating that Donner "inherently" anticipates these claims at Column 34, lines 30-37, where Donner states:

In alternative embodiments, the system determines the wireless device provider based on the address received from the wireless device, and is able to automatically determine the type of message and/or message constraints and transmission constraints associated therewith based for example, on real-

time information or on pre-determined stored information on the device and/or communication system.

Applicant, however, directs the Examiner's attention to the sentence following, where Donner states:

Accordingly, a protocol conversion system for different wireless devices is provided by the present invention for sending and/or receiving messages, such as upgrade offers, responses, acceptances, and the like, from a variety of different users/mobile devices and wireless systems.

Thus, Applicant submits that, here, Donner is disclosing the determination as to the type of communication a device may receive. This determination alone, however, does not render unpatentable that which Applicant is claiming.

Rejections Under 35 U.S.C. § 102

Claims 2-43 stand rejected under 35 U.S.C. § 102(e) as being unpatentable over U.S. Patent 7,208,975 to Donner ("Donner"). Applicant respectfully traverses.

In general, embodiments of the present invention are directed to systems and methods for allowing wireless carriers to provide intelligent spending-limited products to their post-paid subscribers. Real-time call control, including pre-call authorization and processing along with real-time call monitoring is provided. (Page 3, line 28 - Page 4, line 3). Advantageously, embodiments of the present invention allow for wireless carriers to better control resources and to reduce the losses that are historically associated with roaming calls and the inability to be paid therefore, i.e., preventing a subscriber from exceeding a certain level of use and obtaining services for which the subscriber never pays.

In the embodiments described in the specification, "wireless telephone calls are described as the events being processed." (Page 9, lines 25-26, emphasis added). In addition, "it is to be appreciated that wireless data usage, SMS exchanges, etc. can all be processed." (Page 9, lines 25-28). Further, "the same processing can be invoked for such

other types of events such as SMS text messages or data sessions.” (Page 9, lines 28-31, emphasis added). Finally, “various types of calls can qualify as ratable events, including normal calls, call waiting calls, and multi-party calls.” (Page 9, line 31 - Page 10, line 2, emphasis added). Thus, as set forth in the present specification, an event is defined as a wireless communication, which can be one of many different types, occurring over a telecommunications system.

Thus, an “event,” as defined in the specification, i.e., a wireless call or wireless communication session, is monitored and characteristics of the event, i.e., the parameters of the call, as opposed to the “content” of the call, are collected as data to be evaluated in order to determine how the call should be handled, e.g., whether or not the call should be allowed, or prevented, or otherwise handled.

In contrast, Donner is directed to generally purchasing and provisioning items or services online for reallocating and/or upgrading, for example, tickets to events, concessions, etc. (Col. 1, lines 44-50). In general, Donner discloses a system for selling and/or transferring “tickets, goods, services and the like, for movies, theater, shows, **sporting events, cultural events.**” (Col. 1, lines 55-61, emphasis added).

In order for a reference to anticipate a claim, each and every limitation recited in the claim must be found in the cited reference. See MPEP § 2131, citing *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987) (“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.”)

Applicant respectfully submits that Donner does not anticipate that which is recited in any of claims 2-43, as amended, for at least the reason that there is no disclosure, teaching or suggestion, of providing data regarding a wireless communications session as recited in the present claims, as amended, and as defined in the present specification.

First, the “event” to which Donner refers is not the same event as used by the Applicant in the specification. Donner consistently refers to an “event” as something to be attended by a customer. This is evidenced, for example, in Donner claim 1 where a

customer "currently attending the event" may be upgraded or awarded goods and services. In the present application, one of ordinary skill in the art will understand that the "event" of this application cannot be attended in the same way that Donner's event can be attended. Second, Donner is in an unrelated technical art relative to that of the present invention. While Donner and the present specification and original and amended claims may each use the word "event," the similarities end there. Applicant respectfully submits that Donner is non-analogous art with respect to the present claims and its citation against the present claims is defective.

Independent claim 2, as amended and as an example representative of the claims, is directed to a data acceleration system enabling accelerated provision of wireless communication session-characterizing information for a "wireless communication session" initiated in a wireless telecommunications system with respect to a roaming customer of a home wireless service provider. An event manager responds to a wireless communication session initiation command by initiating the accumulation of data characterizing the wireless communication session and responds to the wireless communication session termination command by terminating the accumulation of data characterizing the wireless communication session. A customer account manager and a customer database receive the accumulated wireless communication session characterizing data and maintain customer account records of a home service provider. Further, the wireless communication session is one of: a wireless telephone call; an SMS text message; and a data session

As recited in claim 2, a "wireless communication session" is being monitored in order to update information regarding the customer that initiated the wireless communication session. In the present application, the technical characteristics of the wireless communication session are being monitored not the contents of the communication.

In accordance with MPEP § 2111, during patent examination, pending claims must be "given their broadest reasonable interpretation consistent with the specification."

(Emphasis added). See *Phillips v. AWH Corp.*, 415 F.3d 1303 (Fed. Cir. 2005). Thus, in order to determine the scope of claims in this patent application, it must be done not solely on the basis of the claim language but also “in light of the specification as it would be interpreted by one of ordinary skill in the art.” See *In re Am. Acad. of Sci. Tech. Ctr.*, 367 F.3d 1359, 1364 (Fed. Cir. 2004). Applicant respectfully submits that the Examiner has applied a broad meaning to the limitation “event” contrary to the definition as set forth in the specification.

“The words of the claim must be given their plain meaning unless the plain meaning is inconsistent with the specification.” See MPEP § 2111.01 citing *In re Zletz*, 893 F.2d 319, 321 (Fed. Cir. 1989); and *Chef America, Inc. v. Lamb-Weston, Inc.*, 358 F.3d 1371, (Fed. Cir. 2004). As above, Applicant has explicitly defined “event” in the specification and submits this definition is to be applied to the interpretation of the claims.

“An applicant is entitled to be his or her own lexicographer and may rebut the presumption that claim terms are to be given their ordinary and customary meaning by clearly setting forth a definition of the term that is different from its ordinary and customary meaning(s).” (MPEP 2111.01 citing *In re Paulsen*, 30 F.3d 1475 (Fed. Cir. 1994). Here, Applicant has provided an explicit definition for the term “event.” (Id., citing *Toro Co. v. White Consolidated Industries Inc.*, 199 F.3d 1295, 1301 (Fed. Cir. 1999)). Applicant has set forth a definition for “event” and rebuts any presumption that this word is to be given any other meaning.

Thus, based on Applicant's explicit definition of “event,” Applicant respectfully submits that Donner does not anticipate that which is recited in claim 2, as amended. Further, Applicant submits that Donner does not render obvious, either alone or in combination with any presently cited reference, that which is recited in independent claim 2.

As claims 3-8 depend from independent claim 2, Applicant respectfully submits that these claims are neither anticipated nor rendered obvious by the Donner reference.

Claims 9-43 are directed to methods and systems for reporting roaming wireless communication session characterizing data, selective use of real-time wireless communication session control resources in a telecommunications system and selectively employing real-time wireless communication session control resources for a subscriber to a telecommunications service plan. In each of the claims, the "wireless communication session" is not the "event" of Donner.

Accordingly, for at least the reasons submitted above with respect to independent claim 2, Applicant respectfully submits that claims 9-43 are neither anticipated nor rendered obvious by the Donner reference.

Applicant believes the claims are in condition for allowance and a notice to this effect is earnestly solicited. If the Examiner has any questions, the Examiner is encouraged to telephone the undersigned attorney to discuss any matter that would expedite allowance of the present application. The Examiner is hereby authorized to charge any fees, or credit any balances, under 37 C.F.R. §§ 1.16 and 1.17 to Deposit Account No. 23-0804 during the pendency of this application.

Respectfully submitted,

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